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| APPLICATION NO.   | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO.         | CONFIRMATION NO.       |
|---|-------------|----------------------|-----------------------------|------------------------|
| 10/757,985  | 01/16/2004  | Hiroshi Nomura       | GOT-0021                    | 3238                   |
| 23353 7590 08/24/2007<br>RADER FISHMAN & GRAUER PLLC<br>LION BUILDING<br>1233 20TH STREET N.W., SUITE 501<br>WASHINGTON, DC 20036 |             |                      | EXAMINER<br>FORTUNA, JOSE A |                        |
|   |             |                      | ART UNIT<br>1731            | PAPER NUMBER           |
|   |             |                      | MAIL DATE<br>08/24/2007     | DELIVERY MODE<br>PAPER |

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

|  |                                      |                                      |  |
|--|--------------------------------------|--------------------------------------|--|
| <p align="center"><b>Advisory Action</b><br/><b>Before the Filing of an Appeal Brief</b></p> | <b>Application No.</b><br>10/757,985 | <b>Applicant(s)</b><br>NOMURA ET AL. |  |
|  | <b>Examiner</b><br>José A. Fortuna   | <b>Art Unit</b><br>1731              |  |

**--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

THE REPLY FILED 13 August 2007 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires \_\_\_\_\_ months from the mailing date of the final rejection.  
 b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on \_\_\_\_\_. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

#### AMENDMENTS

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because  
 (a) ☒ They raise new issues that would require further consideration and/or search (see NOTE below);  
 (b) ☐ They raise the issue of new matter (see NOTE below);  
 (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or  
 (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: See Continuation Sheet. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).  
 5. ☒ Applicant's reply has overcome the following rejection(s): 102(b)/103(a).  
 6. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).  
 7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.  
 The status of the claim(s) is (or will be) as follows:  
 Claim(s) allowed: \_\_\_\_\_.  
 Claim(s) objected to: \_\_\_\_\_.  
 Claim(s) rejected: \_\_\_\_\_.  
 Claim(s) withdrawn from consideration: \_\_\_\_\_.

#### AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).  
 9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).  
 10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

#### REQUEST FOR RECONSIDERATION/OTHER

11. ☐ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: \_\_\_\_\_.  
 12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). \_\_\_\_\_  
 13. ☒ Other: See Continuation Sheet.

/José A Fortuna/  
Primary Examiner  
Art Unit: 1731

Continuation of 3. NOTE: The newly added claim requires further consideration and search, since previous searches only required a paper with 3 claimed limitations at the most, i.e., the limitations of claims 1 and 2 and then 3 or 4 or 5, never with all the limitations of all the claims at the same time.

Continuation of 13. Other: The rejection under 103(a) as obvious in view of Makoto et al., JP 2003-041498 has been maintained. It is the examiner's opinion that using levels of hot water solubles, i.e., below 0.1%, would have been obvious to one of ordinary skill in the art in view of the teachings of the secondary references. One of ordinary skill in the art would certainly realize that 0.1 to 0.7% of water solubles in the secondary reference is a preferred range and that it is only preferred because the difficulty of lowering the levels below 0.1%, i.e., the benefits of lowering would not compensate the economical benefits, at that point in time. However, the secondary reference teaches that the lower the levels the better. One of ordinary skill in the art would have reasonable expectation of success if such levels, lower than 0.1%, were used. Note also that current court decision, KSR, forecloses the arguments that a specific teaching, suggestion, or motivation is required to support a finding of obviousness. See recent Board decision Ex parte Smith, --USPQ2d--, slip op. at 20, (Bd. Pat. App. & Interf. June 25, 2007) (Citing KSR, 82 USPQ2d at 1396).